

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA JS-6

CIVIL MINUTES – GENERAL

Case No. SACV 11-00870-CJC(RNBx)

Date: June 17, 2011

Title: SYED GAUHAR AND SYEDA GAUHAR V. INDYMAC BANK, F.S.B. ET AL.

PRESENT:

HONORABLE CORMAC J. CARNEY, UNITED STATES DISTRICT JUDGE

Michelle Urie
Deputy Clerk

N/A
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: ATTORNEYS PRESENT FOR DEFENDANT:

None Present

None Present

**PROCEEDINGS: (IN CHAMBERS) ORDER DISMISSING PLAINTIFFS’
COMPLAINT WITHOUT PREJUDICE FOR LACK OF SUBJECT MATTER
JURISDICTION [filed 6/10/11]**

Pro se Plaintiffs Syed Gauhar and Syeda Gauhar filed this civil action to set aside the foreclosure sale of their home located at 6432 East Lookout Lane in Anaheim, California. Plaintiffs purchased their home on September 14, 2005 with a loan for \$580,000 from Defendant Indymac Bank, FSB. (Compl. ¶ 11; *id.* Ex. 1.) Plaintiffs appear to allege that the Deed of Trust was subsequently transferred and/or assigned to various other banks between September 2005 and November 2010. (Compl. ¶¶ 12–23.) Plaintiffs allege that Defendant MTC Financial, Inc. dba Trustee Corps did not have authority to conduct a foreclosure sale, but that nevertheless, their home was sold at a trustee’s sale on November 16, 2010. (*Id.* ¶ 24; *id.* Ex. 8.)

Plaintiffs attempt to invoke this Court’s federal question jurisdiction by including causes of action for violations of the federal Truth in Lending Act (“TILA”), 15 U.S.C. § 1639, and Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692. In order to establish that this Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331, Plaintiffs must allege at minimum a “colorable” federal claim. *See Bell v. Hood*, 327 U.S. 678, 682–83 (1946). Plaintiffs have not met that standard. Apart from listing the two federal statutes in the titles for their causes of action, (*see* Compl. at 7, 8), Plaintiffs have not alleged a single fact to show that any of the Defendants engaged in any conduct that gives rise to a cause of action under either of the statutes. Plaintiffs’ only factual

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allegations relate to the allegedly invalid transfers and/or assignments of Plaintiffs' Deed of Trust, and the Court cannot determine from these allegations that there is any connection to any obligation of any of the Defendants under TILA or the FDCPA.

Accordingly, the Court concludes that it lacks subject matter jurisdiction over any of Plaintiffs' claims. Plaintiffs' complaint is **DISMISSED WITHOUT PREJUDICE**.

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